

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9574 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RASHMIKANT N. TRIVEDI

Versus

SUPERINTENDING ENGINEER

Appearance:

MR JV JAPPEE for Petitioner

M/S TRIVEDI & GUPTA for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 08/03/96

ORAL JUDGEMENT

This matter is taken up for final disposal at the instance of both the sides.

The grievance of the petitioner is that though he is entitled to be absorbed on work-charge establishment in view of the policy of the respondents reflected from the Office Order dated 11th August, 1980, a copy of which

is annexed with the affidavit-in-rejoinder, the respondents have not absorbed him though his juniors have been absorbed.

Earlier, the petitioner attempted to draw the attention of the respondent authorities for his claim to get absorbed on the work-charge establishment. According to the respondents, since the petitioner was re-instated under the terms of settlement as Rojanddar Clerk, his services could not be regularised. The question was however, not of regularising his services on a regular establishment, but of the entitlement of the petitioner of being absorbed on work-charge establishment in accordance with the policy as per which, daily wagers who have put in more than 5 years of service and who satisfy the other criteria, could be absorbed on the work-charge establishment. This also is clearly reflected from the Office Order dated 11th August, 1980, and there is no dispute about the existence of such a policy. The respondents therefore, ought to have examined the case of the petitioner for being absorbed on work-charge establishment in accordance with the policy and take a decision expeditiously in the cases of the petitioner also keeping in mind the case in which according to the petitioner, juniors to him were absorbed. If his juniors were absorbed as per the same policy to which the petitioner may be entitled, then the respondents will also consider as to from which date the petitioner should be absorbed. The difficulty expressed on behalf of the respondents is that the petitioner was working as a daily wager Clerk-cum-Typist and therefore, he cannot be absorbed on the work-charge establishment, which did not have a post of Clerk-cum-Typist. It may not be necessary in such cases of absorption of a daily wager on the work-charge establishment, to have an exactly equivalent post and it would be sufficient if the petitioner can get an appointment to an equivalent post in the same pay-scale, such as a Clerk's post, and this aspect may also be considered by the Government while taking a decision. Such a decision regarding absorption should be taken expeditiously, preferably within four weeks from today. Rule is made absolute accordingly with no order as to costs.
